

REMARKS

Reconsideration of the application is respectfully requested.

I. Status of the Claims

Claims 2, 3 and 8 were previously canceled.

Claims 1, 4, 5, 7 and 9-16 are amended without the introduction of new matter.

Claims 18-19 have been added without any new matter.

Claims 1, 4-7 and 9-19 are pending.

II. Rejections under 35 U.S.C. § 102

Claims 1-6, 11 and 15-17 were rejected under 35 U.S.C. § 102(b) as anticipated by Wierlacher (WO 99/01093). Further, claims 7 and 9 were rejected under 35 U.S.C. § 103(a) as unpatentable over Wierlacher in view of the Examiner's statement based on case law. Claim 14 was rejected as unpatentable over Wierlacher in view of Osborn (WO 98/08475). Claims 10 and 13 were rejected as unpatentable over Wierlacher in view of Sisson (U.S. Patent No. 3,989,867). Applicants respectfully traverse the above rejections.

Independent claim 1 is directed to an interlabial pad, and includes the features that "the mini-sheet is bonded a to one end of the back sheet along an edge of the elliptical interlabial pad so as to form a pocket shaped finger insertion space." Referring to the non-limiting embodiment shown in Fig. 6(A), the mini-sheet 14 is bonded at an edge to one end of the back sheet 12 of the interlabial pad 1 so as to form a pocket shaped finger insertion space 16.

In the outstanding Office Action, the Examiner appears to assert that all of the features recited in claim 1, relating to the cavity for the finger insertion and the mini-sheet covering the portion of the finger application point, are disclosed in Wierlacher. However, at least the above-noted feature recited in claim 1 as to the pocket shaped finger insertion space is not disclosed in Wierlacher. Wierlacher merely shows in Figs. 5b, 8 and 9 the space 64 formed between the strip 58 and the backsheet. None of the figures, including Figs. 5b, 8 and 9 that are referred to by the Examiner, show the above-noted feature of the pocket shaped finger insertion space as recited in claim 1. Thus, Wierlacher fails to disclose at least that "the mini-sheet is bonded a to one end of the back sheet along an edge of the elliptical interlabial pad so as to form a pocket shaped finger insertion space," as recited in claim 1.

Therefore, the present invention recited in claim 1 and, claim 6 depends therefrom, are patentably distinguishable over Wierlacher. Accordingly, Applicants respectfully request the withdrawal of the rejection of claims 1 and 6 based on Wierlacher.

Claim 6, which depends from claim 1, is further patentably distinguishable over Wierlacher. Claim 6 includes the feature that "the mini-sheet and the interlabial pad are bonded at positions offset from and inside of the peripheral edge of the interlabial pad." Such feature is supported by, for example, the substitute Specification at pages 16-17, paragraphs [0136-0139] and Fig. 5(D). In this regard, None of the figures in Wierlacher, including Figs. 5b, 8 and 9, do not show such features. Therefore claim 6 is further distinguishable over Wierlacher.

Independent claim 5 is directed to an interlabial pad, and amended to clarify subject matter recited. Amended claim 5 includes, among others, the feature that the mini-sheet has an affixing portion at an end of each flap portion in order to affix the ends of the pair of flap portion to each

other. As shown in, for example, FIGS. 23, 24 and 25, each of the pair of flap portions 24A and 24B has an affixing portion at the end of the flap portion. The ends of the pair of flap portions 24A and 24B are affixed to each other.

The Examiner asserts that Fig. 5b discloses the pair of flap portions recited in claim 5. However, each of the flap portions shown in Fig. 5 of Wierlacher does not have an affixing portions at the end of the flap portion. The ends of the pair of flap portions are not affixed to each other. None of the figures of Wierlacher show the above-noted feature of amended claim 5. Thus, Wierlacher fails to disclose “the mini-sheet having an affixing portion at an end of each flap portion in order to affix the ends of the pair of flap portion to each other,” as recited in amended claim 5.

Therefore, the present invention recited in amended claim 5 and claims dependent therefrom are patentably distinguishable over Wierlacher. Accordingly, Applicants respectfully request the withdrawal of the rejection of claim 5 and claims dependent therefrom based on Wierlacher.

Claim 11, which depends from amended claim 5, is further patentably distinguishable over Wierlacher. Claim 11 is amended to clarify subject matter recited, and now recites that “an adhesive is applied to a part of the surface sheet of the interlabial pad to be in contact with a genital area of the wearer’s body.” In this regard, the substitute Specification describes, for example, at page 23, paragraph [0184], that “For the interlabial pad of the present invention, pressure-sensitive adhesive may have been applied to a part of the body side face, in order to enhance the adherence with the body during the wearing.” Such feature of amended claim 11 is not disclosed in Wierlacher. Therefore, amended claim 11 is further distinguishable over Wierlacher.

Claim 7, which is amended to depend from amended claim 5, is further patentably distinguishable over Wierlacher. Claim 7 recites that “the mini-sheet has a length dimension at least

10 % longer than that of the interlabial pad in the longitudinal direction of the interlabial pad.” The substitute Specification describes the above feature of claim 7 at, for example, page 8, paragraphs [0053-0055] as follows.

[0053] . . . , wherein said mini-sheet has a length dimension equal or superior to 10% in respect to said longitudinal direction of said interlabial pad.

[0054] The interlabial pad according to the present invention allows sustaining a state at the moment of finger insertion from a finger insertion opening formed with the mini-sheet into a following space (finger insertion space), until wearing the interlabial pad between the labia. In short, as the mini-sheet forming the finger insertion space has a constant size, the finger, once inserted in the finger insertion space, does not slip off, nor move in the finger insertion space, and the ball of the finger is kept face to the opposite side face to the body side of the interlabial pad. Thereby, as the finger can be held stably in the interlabial pad, the interlabial pad can be fitted in the same direction as the longitudinal direction of the cunnus further easily.

[0055] In addition, in the interlabial pad according to the present invention, the fact that the mini-sheet has a constant length turns to specify the finger insertion direction. Therefore, the mini-sheet in the present invention plays also a role of suggesting the finger insertion direction.

In this regard, the Examiner asserts that, “where only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.”

However, according to the present invention recited in claim 7, the dimension of the mini-sheet is determined such that “the finger can be held stably in the interlabial pad, [and] the interlabial pad can be fitted in the same direction as the longitudinal direction of the cunnus further easily,” and such that “the mini-sheet in the present invention plays also a role of suggesting the

finger insertion direction,” as described at, for example, the above-noted paragraphs of the substitute Specification.

However, in Wierlacher, because Wierlacher fails to teach or suggest the feature of claim 7, the finger cannot be held stably in the interlabial pad, the interlabial pad cannot be fitted in the same direction as the longitudinal direction of the cunnus further easily, and the mini-sheet in the present invention cannot play a role of suggesting the finger insertion direction. Accordingly, the present invention recited in claim 7 is further distinguishable over Wierlacher.

Claim 9, which is amended to depend from amended claim 5. Similar to the above reasons advanced for claim 7, claim 9 is further patentably distinguishable over Wierlacher. Claim 9 recites that “a total circumferential length of the cavity opening is between 30 mm to 120 mm.” The substitute Specification describes the above feature of claim 7 at, for example, page 9, paragraphs [0058-0061] as follows.

[0058] . . . , wherein a total circumferential length of an inside of said finger insertion opening is between 30 mm and 120 mm, or more preferably between 40 mm and 80 mm.

[0059] In the interlabial pad according to the present invention, the finger insertion opening has a magnitude preferable for the circumference of the middle of finger of the wearer.

[0060] In this respect, in case where the inner total circumference of the finger insertion opening is shorter than 30 mm, the finger insertion opening itself becomes small, and impedes finger insertion/extraction. On the other hand, if it is longer than 120 mm, the interlabial pad is not fixed on the finger, preventing the ball of the finger from adhering securely to the sheet surface, and the wearing becomes troublesome.

[0061] On the contrary, in case where the inner total circumference of the finger insertion opening is set to the dimension of the present invention, the finger can be inserted in and extracted from the finger insertion opening easily, and at the same time, the wearing of

interlabial pad can be facilitated all the way keeping the finger inserted in the finger insertion opening.

Because of the feature recited in claim 9, the finger can be easily inserted in and extracted from the finger insertion opening, and at the same time, wearing of interlabial pad can be facilitated by keeping the finger inserted in the finger insertion opening all the way.

However, in Wierlacher, because Wierlacher fails to teach or suggest the features of claim 9, the finger cannot be easily inserted in and extracted from the finger insertion opening, and the wearing of interlabial pad cannot be facilitated by keeping the finger inserted in the finger insertion opening all the way. Accordingly, the present invention recited in claim 9 is further distinguishable over Wierlacher.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

The Examiner is respectfully requested to contact the undersigned at the telephone number indicated below once he has reviewed the proposed amendment if the Examiner believes any issue can be resolved through either a Supplemental Response or an Examiner's Amendment.

Dated: November 10, 2006

Respectfully submitted,

By 

Louis J. Del Giudice

Registration No.: 47,522

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant